UNITED NATIONS

CERD

International Convention on the Elimination of all Forms of Racial Discrimination

Distr.
GENERAL

CERD/C/SR.1410
10 August 2000

Original: ENGLISH

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-seventh session

SUMMARY RECORD OF THE 1410th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 7 August 2000, at 10 a.m.

Chairman: Mr. SHERIFIS

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GE.00-43807 (E)

The meeting was called to order at 10.15 a.m.

THIRD DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION; WORLD CONFERENCE AGAINST RACISM, RACIAL DISCRIMINATION, XENOPHOBIA AND RELATED INTOLERANCE (agenda item 9) (continued) (Discussion document prepared by the Committee's contact group; CERD contact group report, Preparatory Committee, World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance; document prepared by the Secretariat entitled: "Preliminary compilation of best practices of States parties to the Convention in combating racial discrimination"; all three documents without symbols, distributed in the Committee room in English only)

1. The CHAIRMAN invited Committee members to resume their consideration of the discussion document submitted by the contact group established to prepare the Committee's participation in the forthcoming World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance.

2. Mr. DIACONU expressed concern that the objectives in the discussion paper were excessively ambitious and could reflect poorly on the Committee's credibility and professionalism. The paper called for the Committee to submit a well-developed approach to strengthening its capacity to monitor compliance with the Convention, without specifying which resources could be tapped for that purpose. It recommended the universal acceptance of article 14 within a few years, while even the Convention itself had not yet secured universal ratification. The document called upon each Government to formulate and declare specific commitments of actions to be taken in their respective countries, in addition to a declaration and programme of action. Was it referring to the future declaration and programme of action of the Conference? If so, it should be more explicitly worded. It further stated that the Committee should convene a panel to hear testimony from victims of racism, but did not say what means should be used to hold such a discussion and which criteria would be adopted for selecting participants. The victims themselves were by definition almost always disadvantaged and would require assistance to come to the Conference. Because the Committee did not have the means to assist them, there was a real danger that such a panel discussion might include participants who would not legitimately represent victims of racism.

3. The proposal in the document for the Committee to hold a thematic forum was unrealistic. The Conference would last just seven days, and the media would not have the time to attribute much coverage to such an event. Perhaps the contact group could reformulate the document to take into account such considerations.

4. The CHAIRMAN suggested that the phrasing in the document should be recast to read "Recommending universal ratification and full implementation of" the Convention, and "the widest possible" acceptance of article 14. The Committee was quite right to set ambitious objectives, but it must bear in mind that those objectives must be feasible if it wished to maintain its credibility.

5. Mr. PILLAI said that, judging from the footnote on the first page of the discussion document, the Committee would encounter problems in securing sufficient support to ensure participation by all its members in the World Conference. If the entire Committee did not attend,

then it would be difficult to hold a panel discussion or a thematic forum as suggested in the paper. In any case it might be inadvisable to hold a panel discussion, for the same reasons of political sensitivity as were mentioned in the last paragraph of the footnote.

6. Assuming the Committee could hold its session in South Africa, there would be very little time for the consideration of reports as eight of the 22 days available would be taken up by the Conference and four by holidays, and the Committee would also have to attend to its own organizational work.

7. Mr. RECHETOV said that he felt it was important for the Committee to be present and share its experience both in the preparations for the Conference and at the event itself. At the same time, it must not undertake activities which would not have a positive impact or would not be realistically feasible. The proposal to hold a panel discussion was impractical, as there were hundreds of millions of victims of racial discrimination and it would be almost impossible to ensure that the hearings would be representative and that those who spoke would reflect the experience of the victims of the most acute forms of racial discrimination.

8. Addressing Mr. Diaconu's concern about the call for universal acceptance of article 14, he said that the term "universality" had had a long history in law and had evolved over time. From the point of view of modern international law, the Convention was indeed universal, notwithstanding the fact that it had yet to be ratified by some States. For some time, "universal" had no longer meant enjoying the support of all States, as it had in the past. The International Court of Justice had handed down a ruling to that effect with regard to the Convention on the Prevention and Punishment of the Crime of Genocide.

9. Mr. ABOUL-NASR agreed that the wording of the document could be made more clear, especially as far as the widest possible acceptance of article 14 was concerned. The Committee should consider introducing the question of migration into the discussions at the World Conference. The movement of large numbers of very poor people to rich countries in search of work, sometimes in the most appalling conditions, was a modern-day form of slavery that should be of concern to the Conference. He inquired about the follow-up to a decision concerning preparations for the World Conference adopted by the Committee at an earlier session on a proposal by Mr. Valencia Rodríguez.

10. The contact group report contained a disturbing reference, on its last page, to what appeared to be criticism by Mr. Yutzis of the concept and use of early warning measures and urgent procedures. By adopting that mechanism, the Committee had pioneered similar steps taken by other treaty bodies. It would be of interest to know precisely what objections or concerns Mr. Yutzis had expressed.

11. There was a need to include in the Committee's proposals the idea of providing compensation or remedies for indigenous and other groups which had been victims of racial discrimination in the past.

12. Ms. McDOUGALL pointed out that the contact group's aim in presenting the document was simply to facilitate a discussion and to put forward some ideas with a view to ensuring that the Committee's presence would be felt at the Conference, with or without its full membership. It was simply a working document and was not being submitted for adoption.

13. The decision referred to by Mr. Aboul-Nasr which had been adopted by the Committee at an earlier session had called for a number of reference documents to be submitted to the Conference. A compilation of those documents, which were listed on the last page of the discussion document, had been drafted by the Secretariat. It was up to the Committee to leave its imprint on the compilation so that it reflected the common, collective wisdom of all its members.

14. She believed that, when Mr. Yutzis had referred to a "critical approach" to early warning measures and urgent procedures, he had not been criticizing Committee procedures but had simply meant that those measures should be reviewed regularly with a view to improving their effectiveness. Like the contact group report, the discussion document had been intended as a starting point for debate within the Committee and she agreed with Mr. Aboul-Nasr that the recommendations and proposals it contained should be carefully reviewed, and modified should the Committee so desire. She also agreed with Mr. Aboul-Nasr that current immigration laws and processes were tantamount to a contemporary form of slavery, and the Committee should say as much.

15. With regard to a victims' forum to be held in South Africa, more information was needed on how such a forum would be organized. The idea had been suggested at a brainstorming session in which the Deputy High Commissioner had participated. With regard to the Committee holding a formal session in South Africa, the problem of possible sensitivity issues in requesting States parties to submit their reports in South Africa had been raised. The Committee must give further consideration to what kind of positive contribution it wished to make to the Conference and the to non-governmental organization (NGO) meetings.

16. Mr. VALENCIA RODRÍGUEZ recalled that he had suggested that a compilation should be made of the results of the Committee's efforts to ensure implementation of the Convention, including its recommendations and conclusions, best practices by States parties and personal studies contributed by members. He had also stressed the importance of highlighting the Committee's urgent procedures and early warning measures in calling the attention of the Security Council to ethnic or racially motivated conflicts which threatened international peace and security, a mechanism which had often been useful in the past, for example with regard to Kosovo and Rwanda. Those proposals had received the support of the Committee and the recommendations of the contact group seemed generally to have taken them into account. Although its proposal for a working group was somewhat different from his own, he stressed that the group must finish its work by mid-December so that any document would be ready before the start of the Committee's January 2001 session so that the authors could coordinate their presentation to the Committee, which would then have to give it its immediate attention in order to finalize it in time for the World Conference. As an alternative, the Committee could choose to review the document prepared by the Secretariat on best practices of States parties in combating racial discrimination, which also reflected in general the proposal he had made.

17. With regard to the contact group's proposal on recommendations to Governments, that was what the Committee did in any case in preparing its conclusions and recommendations following the reports of States parties. Regarding the convening of a panel to hear the victims of discrimination, he wondered who would choose the list of participants and what the end result of the panel would be. For example, would general recommendations be prepared calling problem situations to the attention of the States parties concerned? Should a thematic forum be held, a topic should be chosen well ahead of time in order to allow for adequate preparation.

18. The CHAIRMAN recalled that the Committee had supported the proposals made by Mr. Valencia Rodriguez in its decision 5(55) (para. 4) and noted that the Secretariat had in fact prepared a document on best practices of States parties. The Committee must decide on how to proceed in reviewing that document and making any necessary revisions so that it would be available for the Preparatory Committee and the World Conference itself.

19. Ms. JANUARY-BARDILL stressed her support for the universal ratification and full implementation of the Convention, which must certainly be priorities for the Committee. She noted that the discussion document prepared by the contact group had been drafted after the Preparatory Committee meeting at which the conference themes had been outlined. With regard to the convening of a panel to hear the victims of discrimination, she observed that similar panels had been held at the Vienna World Conference on Human Rights in 1993, where, for example, a panel had heard the victims of gender discrimination. The Committee had recognized that the victims of discrimination must be heard but, although the contact group had recommended that the Committee should convene a panel, it had not made any recommendations as to who should be invited nor suggested that it would be up to the Committee to choose the participants.

20. While acknowledging that the scope of the Committee's participation in the Conference would to some extent be limited by available resources, she stressed the need for the Committee to reflect on what it wished to achieve and how to make as positive a contribution as possible, even if relatively few of its members were able to attend. The recent round-table discussions had revealed that the Committee had relatively little visibility in comparison to other committees and members should discuss how best to raise the Committee's profile.

21. The discussion document should be seen as the result of brainstorming on the part of the contact group and as a point of departure for further discussions and suggestions on concrete ways to strengthen the Committee's participation in the World Conference. The draft document on best practices prepared by the Secretariat was an excellent basis for the Committee's submission on that topic to the Preparatory Committee and the World Conference.

22. The CHAIRMAN stressed that any written documentation must be ready by the Committee's next session in January 2001 so that it could be reviewed by the Committee before being submitted to the Preparatory Committee and the World Conference. The Committee must indeed set out its priorities and objectives for the World Conference pending a decision on whether it would be able to hold a session in South Africa concurrently with the World Conference, and must also decide on the course of action to be followed if it was unable to hold its session in South Africa and would be represented only by individual members. In that connection, he stressed that it was imperative that as many members as possible should attend,

since the topic of the Conference concerned the core objectives of the international convention of which the Committee was the monitoring body. It was therefore only fitting that the Committee should adopt a very high profile during the Conference.

23. Ms. RAADI (Representative of the Secretary-General) said it was very unlikely that any decision would be taken on the holding of a session of the Committee at the World Conference before the end of the current session. She also reiterated that it was essential that the Committee transmit any written contributions for the World Conference to the Secretariat by the end of January 2001 so that they could be included in the Conference documentation.

24. Mr. de GOUTTES suggested that the papers authored by members of the Committee and listed in the discussion document could be organized according to the themes set out in the provisional agenda of the Conference; each member might also prepare a brief summary of the important points and any proposals contained in their papers, with the World Conference in mind. It should be relatively easy to contact any absent or former members and ask them to follow suit. With regard to the Secretariat document on best practices, he suggested that the introduction to each chapter could be more fully developed but the document would certainly be most useful and, with minor modifications, could be adopted by the Committee. In addition, he suggested that the working group set up to draft a list of priority issues and measures for strengthening the Committee's capacity to monitor compliance with the Convention should perhaps be made up of those members who would probably be attending the World Conference, since they were arguably likely to be the most motivated.

25. The CHAIRMAN noted the proposal by Mr. de Gouttes that Committee members should prepare summaries of their papers and said that the Committee also had to decide on whether it should further define its participation in the World Conference during the current session or wait for a decision on whether or not the Committee as a whole would be able to hold a session in South Africa. He reiterated that any additional expenses incurred by the holding of a session in South Africa should come from the Conference budget, not from the South African authorities.

26. Ms. RAADI (Representative of the Secretary-General) pointed out that the Administration in its response to the Committee's request had referred to an administrative instruction setting out the guidelines for preparation of agreements with host Governments of conferences. Consequently, since the United Nations budget was not at issue, the budget officials could not prepare any programme budget implications with regard to attendance of members.

27. Mr. NOBEL, referring to the proposal to convene a panel to hear testimony from victims, said that, during the recent round table, the representative of the High Commissioner had also stressed the need to hear the voice of the victim; just as the NGO Forum at the Vienna Conference had held many special panels where authentic representatives of women's groups, indigenous peoples and others had given moving accounts of their personal sufferings. He did not therefore think it unrealistic to plan for something similar: it was not a question of paying the travel of such persons but simply of organizing meetings on the subject, in coordination with the NGOs.

28. He supported Mr. Valencia Rodríguez's proposals. The proposed working or drafting group would have to clarify the two distinct mandates, its own and that of the contact group. The working group should reflect the geographical representation in the Committee and he proposed Mr. Fall, Mr. Shahi and Mr. Bossuyt as members. Mr. de Gouttes' proposal was also a good one, and in the case of three of the authors of background papers who were no longer with the Committee - Mr. van Boven, Mr. Garvalov and Mrs. Sadiq Ali - the Secretariat could probably do the summarizing.

29. He observed that if the entire Committee was not to go to South Africa as a body, each individual member would have to be financed.

30. The CHAIRMAN recalled the Committee's practice of deciding on the composition of working groups informally in consultation with the Chairman.

31. Mr. SHAHI, supporting the idea of having members summarize their own background papers, urged that both of the new working groups proposed in the contact group discussion document should be open-ended, with due respect for the principle of geographical representation, in order to reflect as many points of view as possible. He hoped that the representative of the Secretary-General would keep the Committee informed even of preliminary progress on the draft declaration and programme of action. The contact group's recommendations on possible outcomes for the World Conference were hardly listed in the proper order of priority, although they were in themselves generally unobjectionable. He agreed in principle with the establishment of operational anti-racism units within all regional organizations but, given the difficulties of developing countries, believed it might be hard to elicit a constructive response. Ms. January-Bardill had persuaded him about the feasibility of the panel to hear victims of racial discrimination. For the thematic forum to be held during the Conference, there were any number of suitable topics, such as refugees or the right of asylum.

32. With regard to section III of the contact group's discussion document, the Committee should indeed emphasize concrete action, best practices and early warning mechanisms, but there should be a specific reference in the text to urgent action in conjunction with early warning mechanisms, as was traditional. The drafting group proposed by Mr. Valencia Rodríguez should, again, be open-ended and mindful of geographical representation.

33. The CHAIRMAN said that, indeed, early warning measures and urgent action procedures were always spoken of together, as in the Committee's decision 9/53, and all texts should abide by that.

34. Mr. FALL, agreeing that the Committee had the leading role at the World Conference, suggested that it should submit to the Conference a single document summing up the major points, which would later be useful as a basis for the final document. Perhaps a working group should begin now to prepare such a text by January, using the contact group document as a reference.

35. Mention could be made of the regular submission of reports by States parties in section II.C (a) of the discussion paper. He himself was still not convinced that the panel hearing

proposed in section II.D could be organized easily. On the question of attendance by members of the Committee at the World Conference, he cautioned realism, given the problems of financing attendance even at the Committee's regular sessions.

36. The CHAIRMAN, pointing out that the entire Committee on the Elimination of Discrimination against Women had managed to attend the Fourth World Conference on Women in Beijing, said that there might admittedly be difficulties, but the possibilities should not be discounted.

37. Ms. JANUARY-BARDILL said, regarding the preparations for the World Conference, that the South African Government still had not discussed the possibility of holding the fifty-ninth session of the Committee there in August 2001 because it was not sure of the financial implications and because the scheduled Cabinet meeting had had to be postponed until now. A decision by the South African Foreign Ministry on the three possible venues for the Conference would depend on the number of participants expected.

38. The CHAIRMAN asked the members of the Committee whether they supported an earlier proposal by Ms. McDougall that he should send a letter to the chairpersons of the regional preparatory meetings requesting that a Committee member from the region in question should be invited to make an opening statement. He pointed out that funding would have to be found for any representative subsequently invited.

39. Mr. FALL said that he saw no reason not to ask the regional meetings themselves to pay.

40. Mr. ABOUL-NASR, expressing less optimism about their willingness to do so, said that perhaps Member States could be asked to include a member of the Committee from their countries in their own delegations, although he realized, of course, that that might be inappropriate because the members of the Committee were independent experts.

41. The CHAIRMAN observed that there had been some precedents for such an arrangement, since Ms. January-Bardill had gone as a member of the South African delegation to the first meeting of the Preparatory Committee and Ms. McDougall on behalf of her NGO, and both had occupied Committee seats during the Meeting.

42. Ms. JANUARY-BARDILL clarified that she had gone to the Preparatory Committee as a member of the Committee's contact group, and that she and Ms. McDougall had raised funds from other sources.

43. Mr. NOBEL said that the Preparatory Committee and regional meetings were very different forums. The former dealt with technical issues and was politically neutral, while regional meetings were in some cases highly political. Consequently, members might find themselves in a very difficult position if invited to such meetings as part of national delegations, since their membership of such delegations would clash with their role as independent experts. A letter should be sent to the bodies organizing regional meetings and it was to be hoped that the Committee would be able to find ways of obtaining the funding necessary for participation.

44. Mr. SHAHI said that Mr. Aboul-Nasr's suggestion had the merit of overcoming the financial obstacle to Committee members' participation in regional meetings, although it was true that members' role as independent experts appeared to be incompatible with membership of a delegation. He would support any consensus reached by the Committee on the matter.

45. Mr. de GOUTTES agreed that a letter should be sent by the Chairman to the bodies organizing regional meetings, requesting the participation of Committee members. Invitations to some regional meetings, for example to the regional preparatory meeting organized by the Council of Europe, had, in fact, already been issued. He expressed reservations as to whether it was possible to ask Governments to bear the costs of participation if Committee members were to be speaking in an independent capacity.

46. The CHAIRMAN confirmed that the Council of Europe had sent him a letter inviting a member to represent the Committee at its regional preparatory meeting.

47. Mr. RECHETOV expressed support for the comments made about caution in accepting invitations from Governments to participate in regional meetings. The Committee and Governments were both seeking to achieve the same aims but the methods they advocated might well differ. For example, at the Regional Seminar of Experts on the Protection of Minorities and Other Vulnerable Groups and Strengthening Human Rights Capacity at the National Level held in Warsaw, he had suggested that NGOs should participate actively in the preparation of government reports. Not all Governments, however, would agree with such active participation. In that regard, the Committee's common concern to preserve an objective approach should prevail in the matter under discussion.

48. Mr. ABOUL-NASR said it was important that any member of the Committee representing the Committee at an external meeting should express the accepted views of the Committee rather than his own. He strongly disagreed with Mr. Rechetov's view that NGOs should participate actively in the preparation of States parties' reports. Such organizations were welcome to compile their own reports.

49. Mr. RECHETOV specified that, in the paper he had presented to the Warsaw Seminar, he had made it clear that the opinions expressed were those of the author. In so doing, he had observed the rule governing participation in such meetings. He was, however, open to correction if his conduct was considered inappropriate.

50. The CHAIRMAN said that there was no objection to members expressing their own views at meetings such as seminars, but that Committee members speaking on the Committee's behalf at a regional conference should not express their personal views.

51. He took it that the Committee agreed that he should send a letter requesting the Committee's participation in regional meetings. The letter would not be sent to the Council of Europe, which had already issued an invitation to the Committee.

52. It was so agreed.

53. The CHAIRMAN said that the Committee should decide on a subject for the proposed thematic forum. The theme in question should be specific and should then be taken up with the Bureau of the Preparatory Committee. It was further necessary for the Committee to adopt two plans of action, depending on whether its August 2001 session was to be held in South Africa or whether the Committee would be represented at the Conference by a delegation.

54. Mr. NOBEL said that the theme should be chosen from among the subjects on which testimony had been heard at the panel hearing proposed under section D of the discussion document. The panel hearing could serve as preparation for the thematic forum, in the same way as discussions with NGOs on Roma would constitute a basis for the Committee's forthcoming thematic discussion on that subject.

55. The CHAIRMAN said he took it that the Committee agreed in principle to the holding of a thematic forum. Since the proposed panel hearing would be held during the World Conference in South Africa, he suggested that the Committee should revert to the question of the topic to be discussed at a later stage.

56. It had further been proposed that a working group of four or five Committee members should be responsible for developing a list of priority issues and points to be made with respect to each of the five themes on the agenda of the World Conference. A counter-proposal had also been made by Mr. Shahi whereby the working group in question should be open-ended. If such a group were established, a convenor would also be appointed. He sought the opinions of Committee members on the matter.

57. Mr. ABOUL-NASR said that it might be preferable for a single working group to be established, rather than two or three as proposed in the discussion paper, to take responsibility for all the issues proposed in relation to the World Conference. Three or four core members could be chosen for the group, on the basis of their experience, and other Committee members could be invited to participate if they so wished.

58. The CHAIRMAN said that the Committee must decide whether to establish one or more working groups. Given the limited membership of the Committee, it might indeed be more practicable to establish a single group and, if that idea were approved, it should be decided whether to appoint a convenor and make the group open-ended, or to nominate two or three core members before inviting others to participate.

59. Mr. RECHETOV requested clarification of the respective roles of the proposed working group or groups and the contact group already in existence. The latter had operated on the basis of the Committee's experience over the previous 20 years, whereas the objective now was to establish a group designed to understand how the effectiveness of the Committee's work could be enhanced in the future.

60. The CHAIRMAN said that the contact group already in existence was not the subject of the discussion. The proposal for a working group had been made in the contact group's discussion document. Mr. Aboul-Nasr had suggested that a single working group should be set

up to prepare all relevant issues for the World Conference. It was the Committee's task to decide whether the proposed working group set up to deal with such preparatory matters was to be open-ended with one convenor, or whether it should have two or three core members.

61. Mr. SHAHI said that, given the large number of issues contained in the discussion document, it would be more practical to have two or three working groups in view of the heavy workload.

62. Mr. ABOUL-NASR said that he preferred the establishment of a single working group since all the subjects to be prepared were interlinked, but in the interests of a consensus he was prepared to withdraw his suggestion.

63. Mr. SHAHI said that in order to facilitate discussions he would also withdraw his suggestion.

64. Ms. McDOUGALL said that, although it was true that all the issues to be discussed were related, the shortage of time available meant that the Committee would be faced with a very heavy workload. The convening of three separate working groups would therefore facilitate matters and the chairpersons of those groups could consult so as to ensure that the positions they adopted were consistent.

65. Ms. JANUARY-BARDILL said that the rationale underlying the contact group's proposals was that preparations for the World Conference offered an opportunity for all Committee members to be involved. If the workload were shared by three separate groups, their contribution would be more effective.

66. The CHAIRMAN said that three separate working groups could deal with the recommendations made in sections II.A and II.B of the discussion document and with the issue of best practices respectively.

67. Mr. YUTZIS said that it was appropriate for three working groups or teams to be established since the basic distinction made was one of methodology. He endorsed the Chairman's comments with regard to the mandate of each group.

68. The CHAIRMAN, summing up the discussion, said he took it that the Committee agreed that the contact group would continue to operate alongside three separate thematic working groups, each with a convenor and comprising three or preferably two members entrusted with drafting the relevant documentation for the World Conference. The composition of the groups would be decided at a later date after informal consultations.

69. It was so agreed.

The meeting rose at 1.05 p.m.